IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Crl.Rev.Pet.No. 3865 of 2007()

CRA.539/2005 of ADDL. SESSIONS COURT, (ADHOC), PALAKKAD
MC.96/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR
CC.747/01 OF JFCM, ALATHUR

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REVN. PETITIONER: APPELLANTS/PETITIONERS

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1. SYRIAC KURUVILA,
SON OF KURUVILA, MADATHIL HOUSE,
PALAKUZHY P.O., KIZHAKKENCHERRY,
ALATHUR.

2. THOMAS, SON OF JOSEPH,
PALAKKUZHIYIL, KIZHAKKENCHERRY,
ALATHUR.

BY ADV. SRI.S.M.PREM
SMT.K.P.SANTHI
SRI.S.S.HUSSAIN
SRI.P.K.NIJOY

RESPONDENTS: RESPONDENTS

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3865 OF 2007

Dated this the 31st day of October, 2007

O R D E R

The revision petitioners were the sureties for the accused in C.C.No.747/01 on the file of JFCM, Alathur. That was a case involving a forest offence. After enlarging the accused on bail, he remained absent whereupon the Magistrate took proceedings against the revision petitioners under section 446 Cr.P.C. To the show cause notice issued to them, they did not have any cause to be shown for not realising the bond amount as penalty. The learned Magistrate accordingly as per order dated 1.9.05 imposed the bond amount of Rs.10,000/- as penalty on each of the revision petitioners. On appeal preferred by them as Crl.Appeal No.539/05 before the Additional Sessions Court, Adhoc-I, Palakkad, that court as per judgment dated 8.8.07 reduced the penalty to Rs.5,000/- each with a direction to undergo simple imprisonment for one month in civil prison in the event of default to pay the penalty. It is the said judgment which is assailed in this revision.

2. The learned counsel for the revision petitioners

submitted that during the pendency of the appeal preferred before the lower appellate court, the accused in C.C.No.747/01 was arrested and was produced before court and was subsequently acquitted. He pleaded for mercy on the ground that the revision petitioners are impecunious coolie workers.

3. Eventhough the subsequent apprehension of an absconding accused and his acquittal by the court is totally irrelevant in considering whether the revision petitioners had sufficient cause for not imposing the penalty on them, having regard to the fact that the revision petitioners are persons with practically no means, I am inclined to show some leniency. Accordingly, the penalty is reduced to Rs.2,500/-(Rupees two thousand five hundred only). The said penalty shall be paid within 30 days from today. If the penalty is eventually found irrecoverable, the defaulting petitioner shall undergo imprisonment for one month in civil prison.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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